

EXHIBIT 11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

United States Patent and Trademark Office
COMMISSIONER OF TRADEMARKS
Attn: Administrator for Trademark Identifications, Classification and Practice

RE: Serial No: 97489669
Mark: FanNation
Applicant: The Arena Group Holding, Inc.
Filing Date: July 5, 2022

LETTER OF PROTEST

In the matter of United States Trademark Application Serial No. 97489669 filed July 5, 2022, for the mark FanNation filed by The Arena Group Holding, Inc. (“Applicant”) covering “*Providing sports information via a global computer network, namely, providing online publications related to sports in the nature of articles and videos, accessible via the internet on specific webpages directed to individual sports teams, sports, and sports-related topics; Providing news and information in the field of sports, namely, providing online publications related to sports, in the nature of articles and videos, accessible via the internet on specific webpages directed to individual sports teams, sports, and sports-related topics; Providing websites, namely, specific webpages directed to individual sports teams, sports, and sports-related topics, containing information related to sports, sports teams, sport team and player statistics and news; Entertainment services, namely, providing podcasts in the field of sports; Providing online videos featuring information in the field of sports via specific webpages directed to individual sports teams, sports, and sports-related topics*” in International Class 41 and “*Hosting online community web sites featuring information in the field of sports*” in International Class 42, ABG-SI LLC, a limited liability company organized and existing under the laws of the State of Delaware and having offices at 1411 Broadway, New York, NY 10018, United States of America (“SI”), hereby submits this Letter of Protest and, for the factual and objective reasons detailed herein, requests that registration of Application Serial No. 97489669 be refused.

The grounds for this Letter of Protest are as follows:

1. SI is the owner of trademark Application Serial No. 98461300 for the standard character mark FanNation in connection with “*programming on a global computer network; Providing on-line publications in the nature of magazines in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Digital video, audio, and multimedia publishing services; Entertainment in the nature of ongoing television programs in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Entertainment services, namely, providing podcasts in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Entertainment services, namely, providing ongoing television programs in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories via a global computer network; Entertainment services, namely, providing video podcasts in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Production of radio and television programmes; Providing a website featuring blogs and non-downloadable publications in the nature of magazines in the fields of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Providing current event news via a global computer network; Providing on-line*”

*newsletters in the field of topics of sports, popular culture, news, lifestyles, entertainment, trends, human interest stories; Publication of the editorial content of sites accessible via a global computer network” in Class 41. Due to the potential delay in the application details being publicly available, the filing receipt for the foregoing application is attached as **Exhibit A**.*

2. SI acquired the rights in and to the FanNation mark from TI Gotham, Inc. pursuant to the Asset Purchase Agreement and Intellectual Property Assignment Agreement, each dated as of May 24, 2019. SI and its predecessors-in-interest have continuously used the FanNation mark in connection with the aforementioned services and its storied SPORTS ILLUSTRATED sports media brand since at least as early as 2014. SI’s Application Serial No. 98461300 was filed on a 1(a) basis and claims a First Use date of July 15, 2014. Such First Use can be confirmed through the following registrations secured by SI’s predecessor-in-interest, TI Gotham, Inc.: Reg. Nos. 4793186 and 4793187.
3. By virtue of its years of use of the FanNation mark, consumers have come to recognize goods and services bearing the FanNation mark as singularly originating with SI and its predecessors-in-interest.
4. When Applicant filed the subject Application Serial No. 97489669 on July 5, 2022, Applicant and SI were already parties to a certain license agreement whereby SI licensed to Applicant certain rights in connection with the SPORTS ILLUSTRATED brand, including use of the FanNation mark and domain name, www.fannation.com. Pursuant to the terms of the license agreement, use of all intellectual property rights granted by SI inured to the benefit of SI and Applicant was expressly prohibited from filing trademark applications for SI’s intellectual property in their own name. Any claim asserted by Applicant that it had an exclusive right to use the FanNation mark at the time that Application Serial No. 97489669 was filed was made in bad faith because Applicant knew that the mark was used exclusively in connection with licensed activity with use inuring to the benefit of SI. The specimen filed by Applicant to demonstrate use of the mark is a screenshot of Applicant’s licensed activity and is taken from SI’s website, www.si.com/fannation/. When Applicant filed Application Serial No. 97489669, Applicant knew that they did not possess the exclusive rights to use the FanNation mark and that the rights were owned by SI, causing the filing to be fraudulent and made in bad faith.
5. As former parties to a license agreement for use of the rights that are the subject of this Letter of Protest, it is a certainty that SI and Applicant will both direct their respective services to the same types of consumers who are searching online for information about and content related to sports, and who are accustomed to seeing the FanNation mark used exclusively in connection with the SPORTS ILLUSTRATED brand, and will therefore assume that the services originate from the same source.
6. Application Serial No. 97489669 is identical to SI’s FanNation mark and covers identical and/or closely related services to those covered by Application Serial No. 98461300. In light of the foregoing, SI respectfully requests that the Examining Attorney reconsider the pending Application Serial No. 97489669 and refuse to register it pursuant to Section 2(d) of the Trademark Act based on likelihood of confusion with Application Serial No. 98461300.

If any further information or response is requested or required, please contact the undersigned attorney. The attorney can be reached by telephone at 646-490-9839.

Respectfully submitted,

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EXHIBIT A

Type of Evidence: Filing Receipt for Application Serial No. 98461300

Ground Supported: Likelihood of Confusion

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